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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,545	04/02/2008	Jean Pierre Giraud	62357.023806 (CSP-0112US)	1550
32361	7590	01/06/2011	EXAMINER	
GREENBERG TRAURIG, LLP			KUMAR, RAKESH	
MET LIFE BUILDING			ART UNIT	
200 PARK AVENUE			PAPER NUMBER	
NEW YORK, NY 10166			3651	
			NOTIFICATION DATE	DELIVERY MODE
			01/06/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/599,545

Applicant(s)

GIRAUD, JEAN PIERRE

Examiner

RAKESH KUMAR

Art Unit

3651

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2010 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-945)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Final Rejection

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3,5,6,8,9-12,13,17 and 18 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Schorner.

Referring to claims 1,5,6,8,9,12,13,17 and 18. Schorner discloses a method of dispensing at least one article form comprising the steps of:

opening a resealable container (10) and lid assembly (18), wherein the container (10) comprises a reservoir for storing articles (within the container 10) and an opening (16) for dispensing individual articles;

the opening (16) further comprises an elastomeric seal (Col. 6 line 17) that is at least partially located circumferentially around the opening (16);

the lid assembly (18) comprises a plug (34) that is integrally attached to an inner portion (32) of the lid (18) and the lid assembly (18) consists of a hinge (28) attached to the container that functions to rotate the lid assembly at one pivot point (see Figure 1);

dispensing at least one solid dosage form from the reservoir of the container and through the opening (16);

applying a sufficient pressure upon an outer portion of the lid assembly (18) so that the plug (34) engages the elastomeric seal (14) of the opening (16);

maintaining the sufficient pressure to form a substantially moisture-tight seal between the plug (34) and the elastomeric seal (14) of the opening (16);

opening the resealable container (10) and lid (18) assembly by removing the sufficient pressure;

dispensing at least one solid dosage form the reservoir of the container (10) and through the opening (16);

again applying a sufficient pressure (Col. 2 line 59- Col. 3 line 7) upon an outer portion of the lid assembly (18) so that the plug (34) engages the elastomeric seal of the opening(14 and 16); and

maintaining the sufficient pressure to form a substantially moisture-tight seal between the plug (34) and the elastomeric seal of the opening (16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Schorner to have included the articles carried by the dispenser as being solid form dosages because any number of article can be disposed in the dispenser thus increasing apparatus sales.

Referring to claim 2. Schorner discloses a method of dispensing at least one article form comprising the steps wherein, when the plug (34) engages the elastomeric seal (14), a top portion of the plug (34) contacts the a top portion of the elastomeric seal (14).

Referring to claim 3,15. Schorner discloses a method of dispensing at least one article form comprising the steps wherein, when the plug (34) engages the elastomeric seal (14), at least a portion of the plug (34) passes through the opening (16) such that an outer side portion of the plug (34) contacts at least partially a portion of the elastomeric seal (14 and 16; see Col. 6 line 14).

Referring to claim 14,16. Schorner discloses a method of dispensing at least one article form comprising the steps wherein the elastomeric seal (34) extends inwards towards an interior of the container (Col. 6 lines 12-18).

Referring to claims 10,11. Schorner discloses all claimed limitations of claim 4 however Schorner does not specifically disclose the solid dosage forms dispensed as being diagnostic test strips.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Schorner to have included the article to be dispensed as being diagnostic test strips because the dispenser would be more functional and would be able to house different types of articles thus increasing sales.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4,7 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Schorner in view of DeVries (US 7,055,686).

Referring to claims 4,7. Schorner discloses all claimed limitations of claim 4 however Schorner does not specifically disclose a plug engages a foil of the opening to form a foil seal.

DeVries discloses a dispenser (Figure 5B) wherein the opening further comprises a foil (176) that at least covers the opening and when sufficient pressure is applied upon an outer portion of the lid (152), the plug (174) engages the foil (176; Figure 5B) of the opening to form a foil seal.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Schorner to have included a foil seal as taught by DeVries because the foil seal would provide a better seal for the apparatus.

Response to Arguments

Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection. See modified rejections above.

Applicant argues Schorner does not teach or suggest a method requiring "dispensing at least one solid dosage," "a reservoir for storing solid dosage forms," an opening for dispensing individual solid dosage forms," and "dispensing at least one solid dosage form from the reservoir of the container and through the opening."

It is to be noted the applicants does not show a specific solid form dosage either exiting the dispensing opening of the apparatus or the solid dosages stored in the container reservoir, furthermore the applicants drawings do not show how a single dosage form is dispensed from the apparatus individual as a structural feature. Thus it is understood the solid dosage forms can be an infinite variety of sizes and shapes.

The apparatus disclosed by Schorner discloses all claimed limitations of the applicant's apparatus however Schorner does not specifically disclose a solid dosage form can be dispensed from the apparatus. It is in the view of the Office the dispenser of the Schorner is just as capable of dispensing any solid form article such spherical ball for example without compromising the function of the method of dispensing articles.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAKESH KUMAR whose telephone number is (571) 272-8314. The examiner can normally be reached on M-F 8 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gene Crawford/
Supervisory Patent Examiner, Art
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/RAKESH KUMAR/
Examiner, Art Unit 3651